

INITIALS \_\_\_\_\_

# ***LUNENBURG PLANNING BOARD TOWN OF LUNENBURG***

Emerick R. Bakaysa, Chair  
Joanna L. Bilotta-Simeone, Vice-Chair  
Thomas W. Bodkin, Jr., Clk.  
Robert J. Saiia, Mbr.  
Nathan J. Lockwood, Mbr.  
Marion M. Benson, Planning Director



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960 Massachusetts Avenue  
Lunenburg, MA 01462

Minutes  
July 30, 2012

Meeting Posted: Yes  
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462  
Time: 6:30 PM

Present: Emerick R. Bakaysa, Joanna L. Bilotta-Simeone, Thomas W. Bodkin Jr., Nathan J. Lockwood,  
Absent: Nathan J. Lockwood, Marion M. Benson

**SPECIAL PERMIT- EPG Solar, 265 Pleasant Street-** As the Procedural History portion of the Special Permit was previously covered in the Development Plan Review (DPR), Mr. Bakaysa read into record only the Cover Sheet, Findings and Directives.

This special permit approval follows the Applicant's application for Development Plan Review ("DPR") submitted and reviewed under the applicable provisions of the Zoning Bylaw existing at the time of its filing on November 29, 2011. The Planning Board approved that application by written decision issued on June 13, 2012, and, in its decision, noted that subsequent to EPG's November 29, 2011 application, the Zoning Bylaw was amended by Town Meeting on May 5, 2012 to include new provisions applicable to all solar energy facilities (Section 4.15 Solar Energy Systems), including this proposed facility. Among other things, those provisions require a special permit from the Planning Board for all large-scale ground-mounted solar energy facilities proposed to be located outside of the Solar Overlay District. As EPG Solar LLC's proposed solar facility is not located within the Solar Overlay District it requires a special permit. In accordance with those requirements, the Applicant subsequently filed an application for a special permit, which, as set forth herein, the Planning Board hereby grants.

## **II. FINDINGS UNDER SECTION 4.15.4.3 OF THE ZONING BYLAW**

### **1. Section 4.15.4.3 of the Zoning Bylaw states:**

Except where permitted as-of-right in the Solar Overlay District, Large-Scale Ground-Mounted Solar Photovoltaic Installations may be located on any lot containing more than 20 acres in any district by special permit issued by the Planning Board, provided however, that the requirements of Section 4.15 and the following criteria are met.

1. Standards: In granting the special permit, the Planning Board shall find that the permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this bylaw, and shall find that:

- the specific site is an appropriate location for such an installation;
- the proposed installation will not adversely affect the existing neighborhood;
- the granting of the special permit will not reasonably diminish the available light, air, sunlight and other amenities, and;
- there will be no nuisance or serious hazard to vehicles or pedestrians.

2. Conditions: The Planning Board may impose any conditions deemed necessary to achieve the purpose of this Bylaw, such as, but not limited to, the following:
  - o greater than minimum setback requirements;
  - o modification of exterior appearance;
  - o limitation of size or extent of facilities;
  - o regulation of traffic and site plan features;
  - o screening of premises from view by use of appropriate walls, fencing or buffer strips;
  - o control of the number, location, size and lighting of signs;
  - o additional design and siting modifications where appropriate.
2. The Board finds that the project complies with Section 4.15.4.2 of the Zoning Bylaw. Specifically, the Board finds that:
  - A. The proposed project site is not within the Solar Overlay District. It does, however, contain over 20 acres and is, therefore, eligible for a special permit.
  - B. As the proposed project site is within a residential zoning district and abuts other lots within the residential zoning district, a 200 foot buffer strip and 200 set back is required. The plan, as presently proposed and as approved by the Planning Board herein, complies with these design/dimensional standards.
  - C. The granting of a special permit for this project would not be a substantial detriment to the public good nor would it nullify or substantially derogate from the intent and purpose of the Zoning Bylaw. The project makes use of approximately 5.3 acres of the entire 47.2 acre site leaving substantial areas of undisturbed open space, vegetation and screening from abutting parcels and roadways.
  - D. The site is an appropriate location for a solar facility in that it can accommodate both a solar facility of adequate size so as to be of value to the Applicant and accommodate adequate screening and set backs from adjacent properties so as to minimize its impact on adjacent property owners, public ways, and the community generally.
  - E. The proposed installation will not adversely affect the existing neighborhood by affecting the historical significance of the site, scenic vistas, the natural and rural character of the neighborhood, or public safety. As discussed above, much of the site will remain in its natural state or will be landscaped to provide screening and buffering from adjacent properties and ways. Notwithstanding, some arrays may still be visible from certain vantages due to the upsloping topography of the site. Additionally, reasonable steps are proposed to insure that the site is secure, that the Town's emergency responders are adequately trained and educated and that emergency contact and shut down information is provided to the Town and clearly marked on-site.
  - F. The granting of the special permit will not unreasonably diminish available light, air sunlight or other amenities and there will be no appreciable hazard to vehicles or pedestrians.
3. The Board finds that the project complies with Section 4.15.4.9 of the Zoning Bylaw. Specifically, the Board finds that:
  - A. The project will not be lit.
  - B. Signs will be small and in full compliance with Zoning Regulations.
  - C. Land clearing will be limited as set forth above.
  - D. The proposal complies with all safety requirements.
  - E. A draft O&M plan has been provided and a final plan will be provided as set forth in the Directives below.
  - F. The project has been designed to minimize visual impact.
  - G. The height of the panels will be far less than the permitted 35 foot height limit.
  - H. All roads will be permeable and will minimize impacts.
  - I. The project will comply with all DEP and other regulations concerning hazardous materials. A SPCC plan has been submitted to the Planning Board.
  - J. The facility will comply with 310 CMR 7.10 noise requirements.

**III. DIRECTIVES AND CONDITIONS**

49. The Directives and Conditions set forth in the Development Plan Review approval are hereby incorporated herein.
50. The Applicant shall submit a final plan of record consistent with the Overview Plan submitted to the Planning Board on July 23, 2012.
51. The Applicant shall present a procedure for monitoring the solar arrays and all the land in the project to the Building Official/Zoning Officer and the Planning Board for approval.
52. The Applicant shall report to the Planning Board per the attached sheet every Monday morning during construction (see attached). Further, the Applicant shall include in this report any problem during construction that affects/infringes on the neighboring residents' properties.
53. The Applicant shall cooperate with the Town Reviewing and Monitoring Engineer inspecting the project to ensure construction according to the approved plans.
54. The Applicant shall show that a Storm Water Pollution Prevention Plan and a copy of the Order of Conditions have been filed with the Environmental Protection Agency (EPA) and/or Massachusetts Department of Environmental Protection (DEP) as appropriate. Said plan shall provide schedules and details of the construction.
55. The Applicant shall not make any substantive changes to the plans or scope of work without submitting those changes to the Planning Board for engineering review.
56. The Applicant shall submit to the Planning Board and the Building Official for approval a schedule of construction phasing, stabilization methods, and maximum areas to be unstable at any one time to prevent erosion or drainage issues.
57. The Applicant shall supply names and other emergency contact information to the Fire Department, Police Department, Planning Board and the Building Official.
58. The Applicant shall notify the Lunenburg Planning Board the date it begins construction and the date it begins use of the facility and when the surveillance cameras are operational.
59. The Applicant shall provide the Lunenburg Planning Board all future information and correspondence regarding the Conservation Commission's Order of Conditions so the Planning Board will have a complete file on the installation of the Solar Farm.
60. EPG shall file its revised plan and proposal, as herein approved by the Planning Board, with the Conservation Commission and obtain either a new Order of Conditions or Amended Order of Conditions, whichever the Conservation Commission requires, before any building permit may issue.
61. The Applicant shall notify the Planning Board of any problems/changes in the field that warrants an engineer's inspection as to how the noted problems/changes affect the previously reviewed plan.
62. The Applicant shall review the last Landscaping and Screening Plan to add screening for the complete fence and adjust the plan to include planting details discussed at its July 23, 2012 presentation.
63. The Applicant shall submit an As Built Plan prior to the final inspection.
64. Pursuant to Section 4.15.4.11 of the Zoning Bylaw, if the facility is to be decommissioned, the Applicant and/or Owner shall give notice to the Planning Board of any proposed date of decommissioning and submit plans for its removal. The Applicant and/or owner shall physically remove the installation no more than 150 days after the date of abandonment or the proposed date of decommissioning operations.
65. The Applicant shall present a Performance Guarantee before construction as listed below:
  - A. Insurance in a reasonable amount determined and approved by the Planning Board after consultation, and at the expense of the Applicant, with one or more insurance companies to cover damage from structures and other site liabilities. Annual proof of said insurance shall be filed with the Town Treasurer or Accountant.
  - B. An annual maintenance bond shall be posted for the access road and site prior to the initiation of any construction or site preparation. Said amount to be determined by the Planning Board and Applicant, if any.
  - C. The Applicant shall post a bond, or other acceptable form of security, with the Town to cover the cost of removal in the event that the applicant and/or owner does not remove the arrays and any accessory structures within six months of the date that the facility ceases to be used.

66. The Planning Board will notify the Applicant of the date this decision is provided to the Building Official/Zoning Officer.
67. No building permit shall issue until this decision is recorded at the appropriate registry of deeds and proof of recording is provided to the Planning Board.

Appeals, if any, shall be filed within twenty (20)  
days following the filing of this decision with the Town Clerk.

Filed with Town Clerk: \_\_\_\_\_, 2012

The Board noted landscaping changes will be discussed in the field and will adhere to that discussed at the July 23<sup>rd</sup> Public Hearing Continuation. The O&M Agreement will cover plant maintenance and Coir Logs.

Motion, Ms. Bilotta-Simeone to approve the Special Permit as submitted by Chair Bakaysa, Second, Mr. Bodkin Jr., Roll Call Vote, Mr. Saiia, aye; Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone, aye; Mr. Bakaysa, aye.

Mr. Bakaysa read into record the Certificate of Granting of Special Permit.

**JULY 30, 2012**

THE COMMONWEALTH OF MASSACHUSETTS  
Certificate of Granting of Special Permit  
(General Laws Chapter 40A, Section 11)  
The Planning Board of the Town of Lunenburg hereby certifies  
that a  
Special Permit has been granted  
Section 4.15.

To: Twin City Baptist Temple  
194 Electric Avenue (Property Owner)  
Lunenburg, MA 01462

EPG Solar LLC (Applicant)  
5425 Wisconsin Avenue, Suite 600  
Chevy Chase, MD 20815

Affecting the rights of the present owner with respect to land at 265 Pleasant Street (Map 077, part of Parcel 0014), Lunenburg, MA 01462.

And said Planning Board further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Town Clerk.

The Planning Board also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

Attorney Mead noted that under Section 14, even if an appeal has been filed, an applicant can construct at their own risk.

**ADJOURNMENT:** Motion, Ms. Bilotta-Simeone, Second, Mr. Bodkin Jr., adjourned 7:00 PM.